

Honorable Judge Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CLYDE RAY SPENCER ,

Plaintiff,

v.

JAMES M. PETERS, et al.,

Defendants.

NO. C11-5424 BHS

[Proposed]

**ORDER ON DEFENDANTS' JOINT
MOTIONS IN LIMINE**

THIS MATTER having come on regularly for hearing on defendants Davidson's and Krause's joint motions in limine, and the Court having reviewed the records and files herein, the materials submitted in support of, and in opposition to, the motions in limine, and being fully advised; now, therefore,

IT IS HEREBY ORDERED That the defendants motions in limine are granted, denied, or rulings are reserved as indicated below, and where granted plaintiff, his witnesses and his counsel are precluded from offering any evidence, testimony, opinions, comments, argument, statements or questions, directly or indirectly or by inference, on the following topics:

1 1. Evidence or argument regarding claims dismissed and issues resolved in
2 defendants' favor by Orders entered on defendants' summary judgment motions
3 should be excluded.

4 a. Alleged failure to disclose evidence.

GRANTED	DENIED	RESERVED
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6 b. Alleged coercive interview techniques.

GRANTED	DENIED	RESERVED
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8 c. Handwritten notes of Matt Hansen interview.

GRANTED	DENIED	RESERVED
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11 d. Alleged jail visits by defendant Davidson to coerce plaintiff to plead guilty.

GRANTED	DENIED	RESERVED
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13 e. Plaintiff's alleged incompetence when he pled and was sentenced.

GRANTED	DENIED	RESERVED
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16 2. Any copies of former Governor Locke's December 23, 2004 Conditional
17 Commutation, or court orders or decisions in any of plaintiff's post-conviction
18 judicial proceedings, and any testimony or argument regarding statements in
19 any of these documents related to alleged "irregularities" in the underlying
20 criminal investigation should be excluded.

GRANTED	DENIED	RESERVED
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21 3. Any copies of, or testimony or argument regarding, an allegedly forged
22 retirement check or quit claim deed should be excluded.

GRANTED	DENIED	RESERVED
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24 4. Any copies of, or testimony or argument regarding, deeds related to the property
25 at 18308 N.E. Cole Witter Road should be excluded.

GRANTED	DENIED	RESERVED
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5. Any copy of the written report or CV of David Raskin, Ph.D., any opinions or other testimony by Dr. Raskin beyond the subject matter of the two polygraph examinations administered to plaintiff by Dr. Stanley Abrams, and any opinions or testimony by Dr. Raskin about the truthfulness or accuracy of defendant Krause's report of being told by Dr. Abrams that plaintiff scored a "minus thirteen" should be excluded.

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DENIED

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RESERVED

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6. Any copy of, or testimony or argument regarding, the videotape of the interview of Kathryn Spencer by James Peters, or any transcript of that videotaped interview should be excluded.

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DENIED

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RESERVED

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7. Any copies of, or testimony or argument regarding, records related to the prosecution's production of evidence to defense counsel in the underlying criminal case should be excluded.

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DENIED

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8. Any copies of, or testimony or argument regarding, pleadings or other records from the dissolution proceedings between Ray and Shirley Spencer, and Michael and Linda Davidson, beyond the Petitions, Answers and/or Counter Petitions, and Replies, should be excluded.

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DENIED

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RESERVED

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9. Any copies of video from, or testimony or argument regarding, the ABC News 20/20 "Kids Recant" program should be excluded.

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DENIED

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RESERVED

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10. Any copies of, or testimony or argument regarding, any newspaper articles or correspondence related to newspaper articles discussing any aspect of the underlying criminal case should be excluded.

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DENIED

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RESERVED

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11. Any copies of records, or testimony or argument related to, plaintiff's post-conviction efforts to gain release from prison, with the exception of Matt Spencer's March 3, 2003 letter to former Governor Locke, should be excluded.

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DENIED

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12. Any copy of a document listing, or testimony or argument related to, plaintiff's past or current medications should be excluded.

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DENIED

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13. Any copies of, or testimony or argument regarding, criminal cases in which Matthew Hansen was a defendant that are not admissible under FRE 609 should be excluded.

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DENIED

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14. Cumulative photos of plaintiff and/or his family, and a prison setting should be excluded.

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DENIED

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15. Any argument, testimony, or comments which invite the jurors to conceptually put themselves in the place of the plaintiff in considering any of the issues should be excluded.

GRANTED

DENIED

RESERVED

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IT IS FURTHER ORDERED That plaintiff's counsel are directed to inform all witnesses called by plaintiff of the exclusion or prohibition against testimony on those subjects on which defendants' motions in limine have been granted. Defendants Davidson and Krause shall have a standing objection throughout the trial as to all matters on which defendants' motions in limine were denied.

DATED this ____ day of December, 2013.

JUDGE BENJAMIN H. SETTLE